

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

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Federal Communications Commission  
Office of the Secretary

In the Matter of )  
 )  
Amendment of Rules Governing )  
Procedures to Be Followed )  
When Formal Complaints Are )  
Filed Against Common Carriers )

CC Docket No. 92-26

TO: The Commission

REPLY COMMENTS

OF

WILLIAMS TELECOMMUNICATIONS GROUP, INC.

May 8, 1992

Bob F. McCoy  
Joseph W. Miller  
Lisa E. Manning

Its Attorneys

Service Address:

Lisa E. Manning  
Suite 3600  
P.O. Box 2400  
One Williams Center  
Tulsa, Oklahoma 74102  
(918) 588-2833

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REPLY COMMENTS

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WILLIAMS TELECOMMUNICATIONS GROUP, INC.

Williams Telecommunications Group, Inc. ("WilTel"), on behalf of its common carrier operating subsidiaries, submits the following Reply Comments in Support of the Commission's Proposed Amendment to the Rules Governing Procedures to be Followed when Formal Complaints are Filed Against Common Carriers.

In their comments, several parties, including Southwestern Bell, provide valuable insights on the potential effects of the tentative proposals contained in the Notice of Proposed Rulemaking. Southwestern Bell, however, goes further when it suggests that the statutory right to pursue a complaint against unreasonable rates should be nullified

whenever the rates fall within price cap guidelines.<sup>1</sup> This proposal exceeds the scope of this proceeding.

If the Commission elects to consider Southwestern Bell's proposal, it should be rejected on the merits. Under rate-of-return regulation, a carrier's failure to achieve its authorized earnings level does not immunize individual rates from challenge. Similarly, when the Commission adopted forbearance regulation, it did not immunize nondominant carriers from the complaint process. Instead, it maintained that process to provide "for the continued monitoring of the justness and reasonableness" of forborne carriers.<sup>2</sup>

Southwestern Bell's attempts to manipulate the price cap rules to establish unreasonable rates demonstrate the need for continued exercise of the Commission's statutory responsibilities. For example, Southwestern Bell recently filed a proposal to raise its dark fiber rates by 34%, without any demonstration of increased costs.<sup>3</sup>

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<sup>1</sup>Southwestern Bell suggests that "complaints alleging unreasonably high prices" should be subject to "immediate dismissal" when the prices "fall within all relevant price cap index, band and sub index constraints." Southwestern Bell Comments at 2.

<sup>2</sup>Policy & Rules Concerning Rates for Competitive Common Carrier Services & Facilities Authorizations Therefor, Second Report & Order, 91 FCC2d 59, 70 (1982).

<sup>3</sup>On April 30, 1992, WilTel filed a Petition to Reject the proposed 34% increase in dark fiber rates contained in Southwestern Bell's annual access tariff filing, Transmittal

In its pending annual access tariff filing, Southwestern Bell's lowering of other special access rates, such as those for DS3 service, exacerbates, rather than ameliorates the effect of the increase in dark fiber charges. Under price cap rules, reduced rates in the same basket or index can be used to offset increased rates. Under the market conditions faced by interexchange carriers, however, an increase in a single special access rate can cause substantial competitive harm; decreasing the rates charged for other services in order to offset the rate hike can increase this competitive disadvantage. Compliance with price cap rules does not guarantee that rates are reasonable and cannot insure furtherance of the Commission's other policy objectives.

#### **CONCLUSION**

For these reasons, WilTel requests that the Commission reject Southwestern Bell's suggestion that the statutory right to pursue a complaint against unreasonable rates should be nullified whenever the rates fall within the price cap guidelines. Southwestern Bell's proposal exceeds the scope of this proceeding and should not be given further consideration.

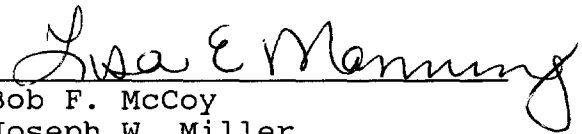
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No. 2187. The increase apparently is motivated by Southwestern Bell's desire to cease offering dark fiber service.

WHEREFORE, WilTel respectfully submits its Reply Comments  
to the Commission.

WILLIAMS TELECOMMUNICATIONS  
GROUP, INC.

May 8, 1992

  
Bob F. McCoy  
Joseph W. Miller  
Lisa E. Manning  
Its Attorneys

Service Address:

Lisa E. Manning  
Suite 3600  
P.O. Box 2400  
One Williams Center  
Tulsa, Oklahoma 74102  
(918) 588-2108

CERTIFICATE OF SERVICE

I, Tina R. Getter, hereby certify that on May 8, 1992, a copy of the foregoing **Reply Comments of WilTel, Inc.** was sent by first class mail, postage prepaid, to the following:

Secretary\*  
Federal Communications  
Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Chairman Alfred C. Sikes\*  
Commissioner James H. Quello\*  
Commissioner Sherrie P. Marshall\*  
Commissioner Andrew C. Barrett\*  
Commissioner Ervin S. Duggan\*

Chief  
Common Carrier Bureau\*  
Federal Communications  
Commission  
1919 M Street, N.W., Room 500  
Washington, D.C. 20554

John Cimko, Jr., Chief\*  
Tariff Division  
Common Carrier Bureau  
Federal Communications  
Commission  
1919 M Street, N.W., Room 518  
Washington, D.C. 20554

Judith Argentieri\*  
Federal Communications  
Commission  
Tariff Division, Room 518  
1919 M Street, N.W.  
Washington, D.C. 20554

Downtown Copy Center  
1114 21st Street, N.W.  
Suite 140  
Washington, D.C. 20036

  
\_\_\_\_\_  
Tina R. Getter

\*Hand Delivered